

AREA PLAN COMMISSION OF EVANSVILLE AND VANDERBURGH COUNTY

**Regular meeting held at 4:00 P.M. in Room 301
Civic Center Complex - Administration Building
Evansville, Indiana**

May 14, 2015

ROLL CALL

Ms. Stevens: I would like to call the May 14, 2015 meeting of the Area Plan Commission of Evansville and Vanderburgh County to order. Will the secretary please call the roll?

APPROVAL OF MINUTES

Ms. Stevens: Is there a motion to approve the April minutes? (Motion was made and seconded.) The minutes of the March meeting are approved.

Members Present:

Marty Amsler, Dewey Colter, Paul Kumar, Roger Lehman, Lynn Lowe, Jeff Mueller, Joy Payne, Stacy Stevens, Bruce Ungethiem

Members Absent:

Dr. Dan Adams, Dr. Ray Hoops, John Montrastelle, Bill Pedtke

Area Commission Staff Present:

Ron London, Director; Janet Greenwell, Zoning Administrator; Donna Holderfield, Zoning Enforcement Officer; Dirck Stahl, Counsel.

REZONINGS

Ms. Stevens: For rezonings, it takes seven affirmative votes to recommend approval of a petition or seven negative votes to recommend denial of a petition. In the event that there are not seven votes, it still goes forward to the City Council or County Commission with no recommendation.

The Area Plan Commission has established the following guidelines to be followed for both rezonings and subdivisions. Mr. London will begin each presentation. As each case is called, the petitioner and the remonstrators who intend to testify will please stand and be sworn in at the beginning of the process. If your name is not on the petition, those who plan to testify need to please fill out the sheets in the back of the room. All testimony must begin by stating your name and address for the record.

The petitioner or person appearing for the case being heard will have a maximum of 10 minutes for the presentation of evidence, statements, and arguments in support of the petition. Then there will be a total of 10 minutes for the remonstrators. This testimony will be followed by a five minute rebuttal period for the petitioner as a summation of the case. Any request for additional time must be voted on by the Board. A timer will be used to help enforce the time limits. Both petitioners and remonstrators should organize their testimony to adhere to these guidelines.

When there is a group of individuals remonstrating against a petition, we strongly encourage the group to designate a spokesperson. If it is necessary for more than one remonstrator to speak, the group should meet out in the hall before the Area Plan Commission discussion of the agenda item, to coordinate the information presented, so that each speaker addresses a different issue of concern. In order to expedite the meeting, remonstrators should refrain from repeating the same concerns already expressed by another speaker about a particular development proposal. The Plan Commission appreciates the cooperation of all participants with these guidelines.

If the Commissioners have questions about issues that we feel have not been sufficiently addressed by the applicant, we have the option to request a continuance until the information needed to sufficiently answer our concerns is available or provided by the applicant or technical staff.

Ms. Stevens: The City rezonings considered today will be heard at the City Council meeting on Monday, June 8, 2015 at 5:30 p.m. in Room 301. The County rezonings considered today will be heard at the County Commissioners meeting on Tuesday, June 9, 2015 at 5:00 p.m. in Room 301.

The following petitions will not be heard this evening:

Docket No: 2015-11-PC R-2015-9 Petitioner: Evansville Brownfields Corporation
This petition has been continued one month to satisfy notice requirements.

If you are here on this petition, you may wish to leave at this time. Now let's move on to the first item on the agenda.

Mr. Stahl: Mr. London, on all matters before the Board, do you swear or affirm that the testimony you will give is true and accurate so help you God? (Mr. London has been sworn in.)

CITY REZONINGS

Docket No: 2015-8-PC R-2015-6 Petitioner: Evansville Health Realty, LLC
Address: (Complete legal on file.) 201, 210, 212 S.E. Fourth Street; 115, 200, 216 S.E. Fifth Street; 101, 201-215 S.E. Sixth Street; 421 Chestnut Street; and 425-433 Walnut Street
Nature of Case: Change from C-2 and C-4 zones to a C-3 zone.

Mr. London: Evansville Health Realty, LLC is requesting to rezone the multiple parcels, the list of addresses just read, from their current zoning classifications of either C-2 or C-4, to C-3 so that all the parcels being prepared for the coming medical school will retain the same zoning classification. The parcels that are part of this request for rezoning are bounded by Locust, SE Sixth, Cherry, and SE Fourth – plus the one parcel at the southeast corner of Walnut Street and SE Fourth.

Total acreage of this rezoning is approximately 16.6 acres. This is a request to rezone much of the land proposed as the site of the new IU medical school. Some of the site is already zoned C-3. The rezoning will make all properties planned for the new medical school at this time designated with a common C-3 zoning classification. Evansville Health Realty was granted Special Use # 30 approval on April 16, 2015 to allow establishment of a college or a university on this site. The approval of SU-30 for this site was the first step in making the site “shovel-ready” for development of the new medical school development. Typically, a special use is considered abandoned and/or terminated if not “established” within one year after approval of the special use. Any progress in acquiring land, rezoning land, razing buildings, applying for grants or other financing options for funding, etc. will be counted towards the establishment of the future use of the site as a medical school. (The SU-30 shall not be deemed “abandoned” should the actual building not yet be under construction in 12 months.)

The Comprehensive Plan Future Land Use Map designates all of this area for mixed use. The rezoning to C-3 is consistent with the Comprehensive plan, as it allows all except industrial and the highest commercial uses that are typically considered incompatible with any residential uses. The rezoning of the site to one common zoning classification affords more flexibility in design of the school and layout of the campus area, as lot lines may be adjusted or combined when they have common zoning. The location of the site within the Downtown Redevelopment TIF area requires Design Review and Redevelopment Commission review prior to submission of construction plans to Commercial Site Review for approval.

Compliance with all code requirements will be determined by staff after submission of plans for the development of the site for the new medical school campus. Access to the site will be determined after plans for the layout and the building(s) are finalized.

Mr. Stahl: All those who will speak on this petition raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Those persons have been sworn in.)

Mr. Wischer: Chris Wischer; Bamberger, Foreman, Oswald & Hahn, LLP. I am here on behalf the petitioner, Evansville Health Reality. There is nothing more for me to add to Mr. London’s report. This is for the medical school campus. As you can see by the zoning map there is a mixed zoning classification in the area in the development. Some is C-2, C-3 and C-4. This will combine everything into a consistent C-3. The C-3 is your

central commercial district. The height restrictions are better for these buildings. The setbacks will be consistent, as Mr. London mentioned, so development plan can be put into place. I am here to answer any questions you might have. Mr. Farney from Lochmueller is here, as well.

Ms. Stevens: Does anyone have any questions for the petitioner? Are there any remonstrators? (None) Is there a motion to approve? (Motion was made and seconded.) Will the Secretary please call the roll?

Ayes: Mr. Amsler, Mr. Colter, Mr. Kumar, Mr. Lehman, Mrs. Lowe, Mr. Mueller, Mrs. Payne, Mr. Ungethiem, and Ms. Stevens
Nays:

There being 9 affirmative votes, Docket No: 2015-8-PC R-2015-6 is approved.

Docket No: 2015-9-PC R-2015-7 Petitioner: Harold Evans

Address: (Complete legal on file.) 2605, 2609, and 2621 Covert Avenue

Nature of Case: Change from R-1, R-2, C-1 & C-4 zones to a C-4 zone with a use and development commitment.

Mr. London: Harold Evans is requesting to rezone the properties located at 2605, 2609, and 2621 Covert Avenue from their C-4 with a use and development commitment, C-1, R-1, & R-2 classifications to C-4 with a use and development commitment. This request will expand the existing vacant C-4 parcel at the southeast corner of Covert and Edson to extend along the south side of Covert Avenue frontage over to Beckman Avenue. The overall site for development of a retail automobile and truck sales lot will be 0.84 acres.

This site is in an area designated by the Comprehensive Plan as an area of residential development. Since the mid-80's there have been a number of commercial rezonings of properties fronting on Covert Avenue, resulting in an amendment to the Future Land Use Map to show some commercial development along the Covert Avenue frontage. This site includes a 75' x 117' site that was rezoned from C-2 to C-4 in 1994 with a use and development commitment that limited the uses to be allowed on the site: the only C-4 use to be permitted per the 1994 rezoning was a contractor shop. The southwest corner of Beckman and Covert, also included in this request for rezoning, was rezoned to C-1 in 1970, but was never developed. Adjacent north across Covert is a residential subdivision. Properties adjacent to the west and south remain residential. There is a C-4 zoned upholstery and repair shop to the east across Beckman. This is a proposed change in zoning to C-4 for a retail automobile and truck sales lot. The C-4 classification allows the highest-intensity commercial uses. Many of the uses requiring the C-4 zoning classification are considered inappropriate adjacent to residential.

Quality site design, including adequate buffers and green areas, should be maintained to lessen the impact of commercial development on the residential. When commercial development occurs immediately adjacent to residences, a minimum 10-foot open and unobstructed yard must be provided adjacent to the residences.

This site is bounded on three sides by streets, and one commercial access point

is detailed on the site plan on each of the three streets. The commercial cut onto Edson was approved by Site Review for the contractor shop that previously occupied the site. The existing house and garage on the corner of Edson and Covert are to remain and be utilized as the office and garage for the vehicle sales lot. Compliance with access will be determined by Site Review Committee upon submission of plans for the development of the vehicle sales lot on the site.

This is a request for a change in zoning to C-4 for commercial development. A use and development commitment is included as part of this petition which states that any C-1, C-2, or C-3 uses shall be permitted uses, but the only C-4 use to be permitted on the site is retail sales allowing outside sales, display and storage as found in Use Group 11 in the zoning code: specifically automobiles, motorcycles, trailers, and trucks. A copy of the use and development commitment was included with the staff report.

Mr. Stahl: All those who will speak on this petition raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Those persons have been sworn in.)

Mr. Bohleber: Steven Bohleber; Attorney at Law. My office is located at 123 N.W. 4th Street, Suite 305. Standing with me is Harold Evans, the owner of Harold Evans Motors and also the petitioner for this case. Evans Motors is currently located at 1056 E. Riverside. Mr. Evans is asking the property on the south side of Covert, between Edson and Beckman, a full block, be rezoned to C-4 with a use and development commitment we have offered. Currently the property does contain, as Mr. London indicated, a mix bag of re-zonings from R-1 to C-4. The latter is with a use and development that was replaced by the prior owner. This request would make it all C-4 with the new use and development commitment. Mr. Evans has operated Evans Motors at the Riverside address since 1978. He has been successful and has expanded that site three times. In order for his business to expand further and to continue to prosper he needs the new location. He is out of space. The Riverside neighborhood, that he has enjoyed for more than three decades, has declined due to changing demographics and rerouted traffic patterns. The site no longer has the curb appeal, accessibility or space needed today, as it has served him well 37 years ago. It's time to grow and most effectively transition to a new location. The decision to relocate to this new site was not a snap decision by Mr. Evans. He has been looking at this site for almost two decades. In fact, eighteen years ago, he acquired the first parcel between Edson and Beckman on Covert. He recently acquired the one that has C-4 zoning. It's now in place and they are now in a position to move forward with his transition plan. My client is a used car salesman. I think salesman and lawyers have the same degree of popularity. He has sold a quality product to consumers throughout the tristate for all these years. I think he has been successful. The cars and vehicles that he sales are not \$1,000 beaters that you can get for \$50 down and \$20 a week. I asked him and he told me- the average retail price of the vehicles he sales are from \$9,000-\$ 20,000. They are quite comparable to the cars you would find on a "used" proportion of a new car dealership around our community. He is in the business for the long term. It will not likely be something he tries for a year, fails, and leaves as an open space. Harold's father, also Harold Evans, was in the car business before him. He started Evans Motors or some variation in 1970. Since 1978,

this gentleman has operated the business continually. In the past nine years his son Andrew has been part of the business. When Harold retires he fully expects Andrew to continue with the third generation of Evans Motors. This is a family business and its multi-generational. Mr. Evans intends to slowly and properly transition the business and may operate both locations for a while. He has no intentions to begin this operation until the new site is approved and fully vetted by the site review process and that all necessary/needed improvements are made, including fencing, green space/ landscaping and pavement. The residential building, on the site, is going to be changed into a commercial office for the business. I remember this neighborhood as a child. It was rural and residential. It is not longer. Since my childhood, Covert has been widened into a 4-lane major artery for east/west traffic. There are few residents remaining between Weinbach and Vann on Covert. It is heavily commercial now. In fact, I don't believe, that there are any residents facing Covert on either side of my client proposed site and Vann Avenue on the east. It is all commercial. It is all business. The residents across Covert to the north face away into the subdivision. They are shielded from the traffic and the noise by a privacy fence. The section that he is operating on, for all practical purposes, is exclusively commercial except a single church and one house that appears to be empty. It may have been a business before it was vacated. I counted 33 businesses along Covert from Boeke to Vann, including a few strip malls, two car lots, a carwash (currently not operating), liquor store, McDonalds, and the Book Broker. There are retail sales from guns to pizza shops, insurance, tax preparation, and cash advance businesses. My client will provide a sustainable business to this section of the town. He will provide a service to the neighbor, community and the tristate as it has for almost four decades. It will provide additional jobs when the business expands. Its good zoning that is consistent with the neighborhood. We asked that it does pass recommendation to the City Council. Harold and I are here to answer any questions. Thank you.

Mr. Stahl: I have a question...I guess more of a statement. Your use and development commitment under 1.A. includes all C-1, C-2 and C-3 uses that would expand the uses in the C-4 zone to include use groups 4 and 6 that are not otherwise available to C-4 (which is residential apartment buildings and group homes/fraternities). I understand that is not your intention.

Mr. Bohleber: The only C-4 use he intends to use the ones we stated for...

Mr. Stahl: Use group 11 and those 4 specific one.

Mr. Bohleber: If you have any suggestions to clarify the language, Mr. Stahl, we are happy to entertain it and amend it before the City Council meeting.

Mr. Stahl: It would be inaccurate to say that all C-1,2,3 uses are contemplated. I think you meant to expand the past what the C-4 would give him otherwise. The other problem is that it also creates an inherent contradiction. Think about all the C-4 uses and here you are asking for the only C-4 use with only use 11 and these four things, that brings back all the C-4 uses other than 4 and 6. I understand what your intention is. I think it would be more appropriate to say just the "B." I would strike out "A." and include B. with

the C-4 uses only along with the retail sales. Does that make sense?

Mr. Bohleber: I do not quite understand you.

Ms. Stevens: Just for our own edification, explain how the other C-4's get lump back in.

Mr. Bohleber: I didn't look at it that way either.

Ms. Stevens: I just want to know where you are coming from so the next time we see this we will know...

Mr. Stahl: If you say the only C-4 use is use group 11 but if you look at the chart it allows...it knocks out 5, 7, 8, 9, and 10. 5, 7, 8, and 9 are included in C-3. "A" brings back in the one that were taken out in "B." It is inherently contradictory.

Ms. Stevens: They're really not C-4, they are C-3.

Mr. Stahl: They're really C-4 but use groups are use groups, okay. Some of them are available for some zoning classifications and some are not. All I am saying it would fix everything if you took out "A."

Ms. Stevens: Would it limit him to just that...?

Mr. Stahl: What is your intent then?

Ms. Stevens: C-1 and C-2.

Mr. Bohleber: That is the only logical intent. I think what Mr. Stahl is saying that we should take it out and just agree that you are only going to be using it for automobile motorcycles, trailers and trucks.

Mr. Stahl: Yeah, you are limiting yourself against these other use group. You would not be doing use groups 5, 7, 8, 9 and 10 or 19, 21.

Mr. Bohleber: My client talked and I talked about that as a position of concern. His only intention for this multi-generational business is to sell cars, motorcycles and trucks.

Mr. Stahl: Then I think the solution would be to take out paragraph "A."

Mr. Bohleber: I am not sure; I think I have done this before in the past. I am not following what you are saying, but I respect your opinion.

Ms. Stevens: Would it help to come up to look at our graph?

Mr. Bohleber: I think I already have.

Ms. Stevens: The reason I asked is because I don't want you to commit to this, have us vote on it and limiting yourself to just the C-4.

Mrs. Lowe: If your intention is to only do the car sales lot with B-1 with group 11 is all that should be on there. C-1, 2 and 3 also encompasses 5, 7, 8, 9, 10, 19 and 21.

Mr. Bohleber: We have no problem doing that. We will file an amended use and development commitment prior to the City Council meeting. What is the deadline for doing that?

Mrs. Greenwell: It might be the Wednesday prior the meeting.

Mr. Bohleber: I would think Wednesday, noon, prior to the City Council meeting to dispose of this case is sufficient. That is more than enough time to get that done.

Mrs. Greenwell: Wait a minute...

Mrs. Payne: I think Ms. Steven said it would be June 4th.
Ms. Stevens: June 8th at 5:30....you have the ability to refine it, as long as you are making it more restrictive, before the meeting.

Mr. Bohleber: I agree.

Ms. Stevens: As long as you do it and give it to the office staff you will be fine.

Mrs. Greenwell: Before Wednesday.

Ms. Stevens: Before the meeting.

Mr. Bohleber: That has been my understanding. This is a new available option to us that I have not exercised before. Mr. Evans...we talked about this. You don't have a problem doing this.

Mr. Evans: No, I do not.

Mr. Bohleber: Are you happy with committing to this body that you will amend it and take out "A." It will go to the City Council and you will limit your use to automobile, motorcycle, trailers and trucks sales.

Mr. Evans: That is fine.

Ms. Stevens: Are there any other questions for the petitioner?

Mr. Mueller: I have a few comments. Steve and I are apparently the same age and we grew up in the same area because I remember Covert Avenue. It has transcended quite a bit. My only concern is with the residential area... we do have a ten foot greenspace in

the front. We have a few car dealers in town that would like to use that greenspace but you are not allowed to. We have cars coming up the side street and it causes a vision problem. I would like to request that you would honor that greenspace and not put your "weekly specials" there. It is getting to be a problem with other car dealerships. It has been brought up before. We have some people abusing that greenspace.

Mr. Bohleber: He has the time to do a quality project which what he wants to do.

Mr. Mueller: I agree with you, Covert has changed and I don't have a problem with the rezoning but I want to make sure you understand you can't park cars on the greenspace. It causes problems for people trying to pull out.

Ms. Stevens: Are there any other questions?

Mrs. Payne: You said there is a privacy fence across that the neighborhood. Does the fencing belong to the homeowners?

Mr. Bohleber: I don't know. There is somewhat of a uniform fence along most of residences on Covert. I suspect it was put up when Covert was widened into 4-lanes and traffic increased. It is a pretty solid fence except for the beauty shop that has access off of Covert.

Ms. Stevens: Any other questions?

Mr. London: Is there any intent to put up any type of a barrier on the south property line where the residential units are... along Beckman?

Mr. Evans: Yes.

Mr. Bohleber: Whatever the code requires and is in good practice, he will certainly do.

Ms. Stevens: Anything else? Are there any remonstrators?

Mr. Bohleber: We did have some conversation with the neighborhood association and addressed a few issues. We are willing to work with the associations to make sure they were comfortable with the products that he was putting there.

Mr. Stahl: I think we have to be careful about this. What you are approving is the use and development commitment as written.

Mr. Lehman: Don't we have to?

Mr. Stahl: ...if you are agreeing to recommend that there be a residential use in a C-4 that would be an illegal recommendation.

Mrs. Payne: We have to take out 1.A.

Ms. Stevens: Why is it illegal?

Mr. Stahl: You cannot grant uses that are inconsistent with the zoning. You can't grant additional uses.

Ms. Stevens: Where is the residential?

Mr. Stahl: C-3...C-1, C-2, and C-3.

Mrs. Payne: Which is 1.A. on here.

Mr. Stahl: I think the way to solve this for them to say that is not what you meant in the first place. I think...

Mr. Bohleber: I think my client would be willing to amend by interlineation, today, and commit to providing a clean copy at the city council meeting. We can remove it right now in front of this body...if it's permissible. I think it would be.

Mr. Stahl: In the past, the plan commission has recommended against rezoning when there is for example, no use and commitment. Can you see where I'm going with this?

Mr. Bohleber: I can.

Mr. Stahl: When there is no use and development commitment ...the discussion is that they would have approved it...if it had a use and development commitment...we understand that you can once you get to City Council. We can't approve it without a use and development commitment. This is a less extreme version of that. I understand you are going to amend by interlineation; the only question is will that satisfy the due process. Especially since your neighbors were not notified.

Mr. Lehman: I think we can do that.

Ms. Stevens: You're the council but if he'll agree to it and scratch through it, in front of us, knowing it's going to be less restrictive...and we are on T.V....

Mr. Stahl: You mean more restrictive.

Ms. Stevens: Yes, more restrictive.

Mr. Bohleber: I think statutorily we have committed ourselves. I think your vote to approve it, would be rescindable, if we didn't.

Ms. Stevens: Well you guys are the attorneys.

Mr. Stahl: In this case I guess I'm okay.

Ms. Stevens: Okay, so does everyone understand what we are voting on. The petitioner has made this commitment.

Mr. Stahl: The statute does give that option to allow it to be as amended. I don't think you can amend it infinity. But in this instance it should be fine.

Mr. Lehman: I make a motion, as amended.

Ms. Stevens: ... and we have a second. (Motion was made and seconded.) Janet will you call the roll.

Ayes: Mr. Colter, Mr. Kumar, Mr. Lehman, Mrs. Lowe, Mr. Mueller, Mrs. Payne, Mr. Ungethiem, Mr. Amsler, and Ms. Stevens
Nays:

There being 9 affirmative votes, Docket No: 2015-9-PC R-2015-7 is approved as amended.

Docket No: 2015-10-PC R-2015-8 Petitioner: Old Evansville Brewery Development, LLC/Jack Rogers, Member-Manager
Address: (Complete legal on file.) 120 N. Fulton Avenue
Nature of Case: Change from an M-2 zone to an M-1 zone.

Mr. London: Old Evansville Brewery Development, LLC. is requesting to rezone a part of their property located at 120 N Fulton Avenue. The petition is to rezone only the 0.58 acres footprint of the 4-story building on the north side of Indiana Street, between Fifth & Sixth Avenues from M-2 to M-1.

Old Evansville Brewery Development is proposing to change the old brewery manufacturing facilities building at the northwest corner of Lloyd Expressway and Fulton Avenue to a mixed use building, maintaining some manufacturing uses on the first floor and changing some or all of the upper floors to an office building. The change to a professional office building requires the downzoning of the building to M-1 for this proposed change-of-use.

The building footprint that is the subject of this rezoning sits on a site surrounded by existing and proposed new parking. The preliminary plans would indicate that one access is planned onto Fulton, one onto Illinois Street, and one onto Sixth Avenue. The proposed change-of-use of this site to accommodate multiple new offices may require approval of a variance to relax the total overall number of spaces to be provided. The overall development includes 3 existing buildings and one proposed new office building at the northwest corner of the Lloyd Expressway and Fulton Avenue on this 7.54 acre site. A part of this site is zoned M-1 and a part is zoned M-2. The 4-story brick building planned for conversion to offices on the upper floors sits on the M-2 part of the site. Compliance with access, parking, and all code requirements will be determined

by Site Review upon submission of plans for the development of the change-of-use of the site.

The Comprehensive Plan Future Land Use Map indicates this as an area of industrial development. The downzoning from M-2 to M-1 is consistent with the Comprehensive Plan.

Mr. Stahl: All those who will speak on this petition raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Those persons have been sworn in.)

Mr. Morley: Jim Morley, Jr., Morley and Associates; Project Engineer. If any of you have driven past this intersection over the last 6 months, you have seen it has under gone quite a transformation. It is much better. It is a four story. The bottle shop portion of the building is the next part of the project. It will be transformed 6 months from now into offices. Office buildings are not allowed in the current M-2 zoning. We are asking for a down zoning from an M-2 to M-1 to allow for professional offices to be inside the 4-story portion of the building.

Ms. Stevens: Are there any questions for the petitioner?

Mr. Amsler: Are there any windows being put into the building. (Inaudible)

Mr. Morley: Did you ask if we are going to add any windows?

Mr. Amsler: Are there going to be any windows put on the inside? (Inaudible)

Mr. Morley: Yes, there are new windows going into the building. The old doors are being closed up and new doors being put in.

Ms. Stevens: Any other questions?

Mr. Coulter: Can we get a better idea on the parking scheme?

Mr. Morley: As Ron mentioned, depending on how the project gets built out and the actual uses that end up in there, we will have to go to Board of Zoning Appeals and request a parking variance. Back when it was brewery they had a different parking count system than office buildings do. We won't know...the intent is that we will go in for a parking variance which will allow for offices. We feel it is the highest and best use of the property. It will increase the tax base. There is a demand for more offices. We have talked to various people who are very interested in being in that building. I don't know if any of you have been in the building since they are renovating it, but it is really a fabulous building on the inside. It doesn't look anything like the old brewery anymore.

Mr. Colter: I think it's very commendable that the project is moving. I have watched it come before this board for several times along with the Board of Zoning Appeals. I don't

want to see a situation where we wind up styming the growth and development because of the parking situation in the area.

Mr. Morley: I think we will be okay. The building closest the Lloyd Expressway, One Life Church, occupies part of that. It's just a Sunday parking group. There is going to be some internal parking. They will provide some parking inside the building. If you have been by recently there is now parking along Fulton Avenue. I feel like we are picking up some steam. The developer knows if they can't provide enough parking they will have problems leasing out the spaces. That would be a bad situation.

Ms. Stevens: Any other questions?

Mrs. Payne: I really like what you are doing on this corner. I remember when the brewery was there and the bus would come along Division Street and stop. It is so nice what you are doing now. My church is One Life...

Mr. Morley: Oh okay.

Mrs. Payne: We are there just on Sunday's. I think Jack lets us use the parking from his office supply place across the street.

Mr. Morley: Thank you very much. Thank you for the compliment.

Ms. Stevens: What are they going to with big copper kettle?

Mr. Morley: They put it outside so it would be really obvious if any one tried to steal it.

Ms. Stevens: I know...Are they going to keep it on the side or are they going to sale it?

Mr. Morley: I don't think there is final plan yet. It used to be inside the building that did not have roof on it. To keep people from stealing it, they took a crane and sat it in the building. When the building came down they had to find a different location for it. They put it on the corner so it would be really obvious if any one tried to steal it.

Ms. Stevens: It could be a really cool sculpture...Are there any remonstrators for this petition? (None.) Is there a motion to approve? (Motion was made and seconded.) Janet, please call the roll.

Ayes: Mr. Kumar, Mrs. Lowe, Mr. Mueller, Mrs. Payne, Mr. Ungethiem, Mr. Amsler, Mr. Colter, and Ms. Stevens

Nays:

Abstain: Mr. Lehman

There being 8 affirmative votes and 1 abstention, Docket No: 2015-10-PC R-2015-8 is approved.

COUNTY REZONINGS

Docket No: 2015-4-PC VC-1-2015 **Petitioner:** Gerald Schreiber Trust & Phyllis Schreiber Trust **Address:** (Complete legal on file.) 5409 Hogue Road
Nature of Case: Change from an agricultural zone to a C-4 zone with a use and development commitment.

Mr. London: Gerald Schreiber, Trust and Phyllis Schreiber, Trust are requesting to rezone their property located at 5409 Hogue Road from Agricultural to C-4 with a use and development commitment. This is a 2.19 acre site located on the north side of Hogue Road, between Red Bank Rd. and Nunning Rd.

There is an existing old farm building on this site constructed around 1920 that has been utilized for a number of years as a contractor shop. The Schreibers were notified by staff that the existing shop must be rezoned to the proper zoning classification if it is to continue as a commercial use on this site. This is a request to rezone the site to allow the contractor shop to continue operation on the site.

The Schreibers have indicated that the existing 1,185 sq. ft. residence on the front of this site is to be utilized as an office for the contractor shop. The shop is operating out of a 24' x 142' (4608 sq. ft.) building on the rear of the lot. In recent years, the storage for the contractor shop has started to spill over onto an adjoining lot. All parking and all storage of materials must be located on the lot that is the subject of this rezoning request, and must be removed from the adjoining site.

Access to the shop on the rear of this site is from a single-wide residential driveway, and will need to be widened to accommodate two-way traffic for the commercial use. If this site is rezoned for commercial use, compliance with access and parking will be addressed by Commercial Site Review.

The Future Land Use Map in the Comprehensive Plan designates this as being in an area of residential development. The rezoning is a request to bring the existing masonry contractor shop on the site into compliance with the zoning code.

The County zoning code allows 182 different uses within the C-4 district, including office, commercial, service, storage, and recreational uses - no residential uses. A use and development commitment included as part of this rezoning limits use of the site to a contractor shop as the only permitted use. A copy of the use and development commitment was included with the staff report. The district allows maximum 75% lot coverage, and up to a 50 foot height limit for structures. C-4 allows on-premises signs up to 300 sq. ft. at 50' height and billboards up to 500 sq. ft. at 50' height.

Mr. Stahl: All those who will speak on this petition raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Those persons have been sworn in.)

Mr. Schreiber: Troy Schreiber, 3166 Oak Ridge Court. The office is 5409 Hogue Road.

Ms. Stevens: Do you have anything to add to Mr. London's report.

Mr. Schreiber: I would like to go over a little bit of the history. It started out as a family owner/business. My great-grandfather and grandmother owned the property. My grandfather, N.M Bunge, started N.M Bunge Masonry. My mother and father, Gerry and Phyllis, had it at his passing. Since then my sister Tammy and myself have used the facility as an office space for N.M. Bunge. It is a four-generation property that we have had on the west side. We were born and raised on the west side. It is a small three person office. My sister, mainly, does the secretarial work. Another gentlemen and I do all the bidding from that office. We have a small shop behind us. We have small flat-bed trucks (4) in the building. There is nothing large. We own properties around the surrounding area. We have owned 5419, 5405, 5321, and 5301 at some point. Presently, we own 5409 and 5405 in the area. We want to keep the neighborhood looking the same. We do not want to change any zoning. We talked to all the neighbors and they were fine with all the ideas we had. We have a good, working, relationship with the City of Evansville and the surrounding areas. We belong to a lot of civic organizations around Evansville as well. We have worked on many civic and City projects. That is a short synopsis of what I have to add.

Ms. Stevens: Thank you. Are there any questions?

Mr. Colter: I can see the old barn there (Powerpoint) is a continuation of the structures going out. How far back ago were those built?

Mr. Schreiber: How far...

Mr. Colter: I mean- were they there 20 years ago? 50 years ago? From the barn addition...

Mr. Schreiber: At least 60 or 50 years ago.

Mr. Colter: That is pre-zoning, which explains how they wound up with that expansion. Let me move to the use and development commitment. It says "contractor shop." How will we stand (to staff) with the billboards in this area.

Mrs. Greenwell: I think the billboards will require a variance because there are residents on both sides. They couldn't possibly meeting the spacing requirements.

Mr. Colter: I drive by there all the time I know the area. It's well kept, well maintained. When they are looking at expansion and the zoning, is there any part of the use and development commitment that would include more additional restrictions to ensure that didn't become an issue. That's my question and that's why I raised the question to the staff.

Mr. Schreiber: We really don't want any signage or billboards around that area. We want to keep a residential façade and keep it as residential as possible.

Mr. Colter: Right. I understand that. I just am concerned about 20 years from now if someone else buys the property. They have a piece of C-4 and away we go...I think to the future. I appreciate how well you maintain that property. It's very well maintained. I appreciate that.

Mr. Schreiber: We are not going anywhere. In 20 years I hope we are still around.

Ms. Stevens: Just so staff can answer that. Janet kind-of did but because there is a use and development commitment for a contractor shop. Since that is a broad term, would a billboard be allowed in contractors shop in a C-4 or is it signage that's in question ?

Mrs. Greenwell: A billboard isn't listed in any of the use groups. It is listed under signage. As such it isn't a use. It is...

Mr. Stahl: A sign...It's an off premises sign.

Mrs. Greenwell: There is a required 300' spacing from any residents and 300' spacing from any church or school. I don't see it even being a possibility to put one there without a variance. It would end up before the Board of Zoning Appeals.

Ms. Stevens: He could put a sign up...

Mrs. Greenwell: He could put a sign up to 300 sq.ft. Actually, he could put three signs totaling 300 sq.ft...No...Two in the county.

Ms. Stevens: Just so we are clear and so you understand our concern...once its zoned that...you guys could win the lottery and sale that property but the next person could do that to your neighbors. We would have given them permission tonight to do that. That is the question. Are they are any other questions?

Mr. Lehman: Can we tie a zoning to a use or an owner?

Mr. Stahl: No.

Mr. Lehman: I didn't think so but I thought I would ask.

Mr. Stahl: It's not like a variance.

Ms. Stevens: Any other questions? Are there any remonstrators on this petition? (None.) Is there a motion to approve? (Motion was made and seconded.) Janet, please call the roll.

Ayes: Mr. Lehman, Mrs. Lowe, Mr. Mueller, Mrs. Payne, Mr. Ungethiem, Mr. Amsler, Mr. Colter, Mr. Kumar, and Ms. Stevens

Nays:

There being 9 affirmative votes, Docket No: 2015-4-PC VC-1-2015 is approved.

SUBDIVISIONS

Ms. Stevens: The rezoning portion of the meeting is now over and we will now hear the proposed subdivisions that are on our agenda. As stated earlier, the Area Plan Commission is the sole authority on subdivisions. State law and our Subdivision Control Ordinance dictate the issues the Plan Commission can consider when reviewing a subdivision application. Unlike a rezoning, consideration of a subdivision is limited to whether it complies with the standards and requirements in the local Subdivision Control Ordinance. If a subdivision application meets the requirements set forth in the Subdivision Control Ordinance, the Area Plan Commission must approve the primary plat. Indiana Courts have indicated that Plan Commissions have no discretion in this regard, and that our role in reviewing and acting on subdivisions is purely ministerial. Seven affirmative votes are needed to approve a subdivision plat and conversely, seven negative votes are required to deny a plat. In the event that there are not seven votes for or against, this is considered a no action vote and the plat returns to the next APC meeting for consideration.

The guidelines for testimony on subdivisions will be the same as those explained at the onset of this meeting. Petitioners and remonstrators should remember that the only testimonies the APC can consider are facts that prove whether the plat complies with the specific standards in the Subdivision Control Ordinance. Copies of the Subdivision Control Ordinance are available in the Area Plan Commission office in Room 312 or on our website at evansvilleapc.com.

Now let's move on to the subdivisions.

| | | | |
|-------------------|--|---------------------------|-----------------|
| <u>Docket No:</u> | <u>4-S-2015</u> | Waterstone at Green River | 4 Lots |
| <u>Address:</u> | 4105, 4109 N. Green River Road | | |
| <u>Engineer:</u> | Scott Buedel, Cash Waggoner & Associates | | Owner: Oak Hill |
| Investments, LLC | | | |

Mr. London: The proposed Waterstone at Green River is a 4-lot mixed use multi-family and commercial subdivision on a 27.4 acre site located near the northeast corner of the Green River Road and Lynch Road intersection at the existing access for Cullen Avenue on Lynch Road. This site is currently undeveloped. The site was rezoned to C-2 by the City Council on February 9, 2015, and on April 13, 2015. An apartment complex is planned for Lot 1 of the site. The Subdivision Review Committee reviewed this plat on April 6, 2015.

The adjacent roadway to the subdivision is Lynch Road, although there is currently no access to the property along the north side of Lynch. The plat shows that

the applicant will request to extend Cullen Avenue from its terminus at Lynch Road to the north through the site. This extension of Cullen will be the main subdivision entrance for Waterstone, providing access to all four new lots. Sidewalks are required along both sides of Cullen unless waived.

City Engineer's initial comments are as follows:

- What were the findings of the Traffic Impact Study?
- All identified improvements outlined in the Traffic Impact study will be required and will be at the cost of the developer.
- This office will need to review the results and integrate them into the proposed street system.
- The proposed design, ROW, and street elevations must incorporate future street connections and account for the current street design and construction standards.
- This office will review the final proposed street plans and comment at the time of their submission.
- Full access to all lots should be as far north of the Cullen-Lynch intersection as practicable. (300+ feet as discussed during the review is appropriate)
- Cross access agreements and interconnections should be made for lots 1 and 2 and lots 3 and 4 in order to share approved access locations.
- The shared full access location should align directly across Cullen.

Earlier today the APC staff received the following additional comments from the City Engineer:

1. The area on the south side of the private drive currently stated as 25' feet of ROW for a private drive needs to be dedicated as Public ROW. I do not feel that improvements would necessarily have to be made immediately, but as more of the ground to the West of this development becomes developed there will be a need to build a connection to Green River Road.
2. With regards to access for this site, the City of Evansville has granted preliminary approval for the development to access Lynch Road at the intersection of Lynch and Cullen. Final approval will occur once final approval is granted to the roadway plans and the developer obtains a Construction in the ROW permit.

Evansville MPO's comments are as follows:

- The Traffic Impact Study needs to be updated and submitted for approval.
- Full access to all lots should be as far north of the Cullen-Lynch intersection as practicable. (300+ feet as discussed during the review is appropriate) Cross access agreements and interconnections should be made for lots 1 and 2 and lots 3 and 4 in order to share approved access locations. The shared full access location should align directly across Cullen
- The MPO supports the installation of sidewalks to accommodate pedestrian activity, but alternatives to sidewalks can also be provided in appropriate areas. Any request to waive sidewalks should be accompanied by an alternative plan to accommodate active modes of transportation.

A portion of the site lies within Special Flood Hazard Zone "AE", as shown on Community Panel No. 18163C0140D of the Flood Insurance Rate Maps (FIRM) of Vanderburgh County, Indiana, dated March 17, 2011. Buildings placed on lots within this subdivision will be subject to FPG elevations as determined by the Floodplain Management Ordinance. The plat identifies the FPG on all the lots at 386.0'. The contours show elevations that range from 375' (on the east end of Lot 1) to 385.0' (on Lot 2), therefore substantial fill will be needed in some areas for the building pads to meet the FPG, and it is recommended for access drives to be at least at the base flood elevation (BFE) of 384.0'.

Building Commission comments are as follows:

- Development may require a permit from the Army Corp of Engineers, as a designated wetlands is located in a portion of the subdivision (existing lake on Lot 1).

- A site grading plan, elevation certificates, tech bulletin 10-01 and compaction test results will be required for development.

- City water is available by extension, or a Letter of Credit will be required.

The Water and Sewer Department comments indicate that sanitary sewer is available to all lots, and a sewer extension may be necessary depending on the # of lateral connections desired.

Contact the Utility Engineering Department for Water and Sewer tap fees.

The Board of Public Works granted preliminary drainage plan approval for Waterstone on May 7, 2015.

The site is located in the noise sensitive area of the airport and the standard Noise Sensitive Statement needs to be added to the plat before recording.

The applicant has also requested a partial sidewalk waiver for installation of sidewalks on the west side of Cullen instead of on both sides as required by Code. After addressing primary plat approval, the APC will consider the partial sidewalk waiver request. All the proposed lots are above one acre in size, and are proposed to be used as higher intensity uses than for single family residential. In commercial and other congested areas, the City Subdivision Code states that "the Area Plan Commission may require sidewalks of greater width (than the minimum width standard) constructed adjacent to the curb." The sidewalk certificate required in Subparagraphs 17.05.100(E)(1)(b)(i),(ii) and (iii) shall be provided on the plat if sidewalk is not installed before the plat is recorded or if no letter of credit is filed prior to recording.

Staff recommends that the Waterstone plat be granted primary approval with the conditions to be listed in the motion for approval, as the plat complies with the Subdivision Code.

Mr. Stahl: All those who will speak on this petition raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Those persons have been sworn in.)

Mr. Buedel: Scott Buedel, Cash Waggoner and Associates. I am here on behalf of Oak Hill Investment, Marlin Goebel. You have seen this, parts of this development, a few times in the past when we appeared for rezoning. Shawn Sullivan was here with some color exhibits. He gave a little bit better explain of what is going to go on the large lot in this subdivision, which is basically the apartment complex. Some of the exhibits that are incorporated into the display/slide, those site plans are old. Due to costs, we are having to come back and re-design of the overall apartment complex. A couple of things have changed. The number of buildings has been cut down. The general shape of that ... we will have five buildings that surround the lake. It will have a main access drive coming in and a-round- about back by the club house. The buildings out by the Cullen Avenue or along the overhead power line those are not being purposed at this time. We are currently in the process of doing site designs, grading plans and so forth on the apartment complex along with road designs for north Cullen Avenue. Last week we did receive drainage approval, preliminary drainage approval for the site. I think there were a couple of questions for Brent Schmitt on this. I guess the first question is: "What are the findings of the traffic impact study?" Marlin, initially had a study prepared for this site when it was a little larger and incorporated all of the property that went out to Green River Road. Whenever those options expired or became unavailable, he reduced the size of the project down to what it is today. We are now in the process of updating the traffic impact study. The Lochmueller Group did the initial study and they are revising it. It should be done by tomorrow... or any time now. We do have Dave Savage on board to look at the traffic light at N. Cullen and Lynch. He is in the process of doing signalization of that and getting everything ready for the 4-way intersection.

Ms. Stevens: Are there any questions?

Mrs. Payne: Cullen Avenue is going to go through and end at lot #4? Is that right?

Mr. Buedel: Yes.

Mrs. Payne: It's purposed...

Mr. Buedel: Yes, it is purposed. It's not there now. There is a transmission line, a Vectren transmission that crosses Lynch Road at that location. Cullen Avenue to the south of Lynch Road is within the west side of that Vectren easement...the west 50' of it. The extension of Cullen Avenue is a requirement from the City/County that Cullen Avenue will be extended all the way to Hirsh Road, at some time, as these developments keep happening. Part of our requirement for rezoning and subdividing the property is to take Cullen Avenue all the way across our property, to the next property. There is a small gap in between the two. Delaware Trace apartments to the north which extends all the way from Green River Road go all the way to the east end of our property. They are constructing a portion of N. Cullen Avenue across their site too. It is part of their required site plan approval...

Mrs. Payne: Cullen is going to be the main in/out...entrance/exit.

Mr. Buedel: Correct. At some point in the future, as other properties get developed, it will keep extending further north and tie into Delaware Trace and properties even further north.

Mrs. Payne: Just out of curiosity, why do they want to waive the sidewalks on the east side of Cullen?

59:19

Mr. Buedel: Part of what...When you read the requirements for the sidewalks, one of the options to be able to ask for the waiver is if all the lots are over one acre in size. All our lots are definitely over one acre in size. I did look at the overall area to see where the sidewalks are currently and what kind-of request this really is. We don't want something that is out of line with the surrounding areas. You have to go a pretty good ways to find a sidewalk...in this general area. I think Constellation Avenue, which is across from Menards further down the road, has a sidewalk along its road.

Ms. Stevens: You are purposing one on the east side. You're still going to have sidewalks.

Mr. Buedel: We do want sidewalks on the west side of N. Cullen. That is going to be for the foot traffic whenever this road gets extended further to the north. We realize that people, now, walk from Delaware Trace Apartments down the side of Green River Road. They have no sidewalks.

Ms. Stevens: Just because there isn't any sidewalks doesn't make it right...You can't look around, see there are no sidewalks and think, 'We don't want to add sidewalks if there are no other sidewalks.'

Mr. Buedel: No...

Ms. Stevens: I know but that is what it sounded like you said. I know that is not what you meant.

Mr. Buedel: We are considering asking for a waiver. There are no sidewalks in this area. We know what happens on Green River Road with Delaware Trace. People who live there are walking down to the Hucks Store. We are purposing to put the sidewalk on the west side of Cullen Avenue. It would provide a route from Delaware Trace, or whatever else is to the north, cross over to Lynch Road to get to the shopping centers on the south side.

Mr. London: I do have letters from the City Engineers Office and MPO. We will have to take a separate vote after we vote on the subdivision for the sidewalks. I was planning on reading those into the record after we get done with the discussion of the subdivision.

Mr. Stahl: I have a question about that. If the sidewalk waiver wasn't noticed up as part of the agenda, I don't know if it is right for consideration. It doesn't look like it was part of actual subdivision application or the preliminary. How does the staff want to handle that?

Mr. London: We have done those in the past. In the last couple of days, I have sent out an email to all the surveyors and engineers to let them know that whenever they file the plat they have to file the waiver with it. It has to be done at the same time. Since we have started this new process, like the Promenade and some other one, we have allowed them to come on the back end of the agenda with their requests. Basically, I have been treating it the same way that we have treated it in the past but from here on out, it needs to be submitted with the subdivision. I figured since we have done it that way in the past we can allow this one to follow the same process. I have let everybody know that in the future they need to be submitted together.

Mr. Stevens: Did that answer your question Mrs. Payne?

Mr. Buedel: I did want to add one more thing. I know we are not talking at this time but I would like to add another statement regarding the sidewalk. The transmission line, (Vectren's transmission line) which is down the section line east of N. Cullen has large transmission poles that are in place and will remain there. The road way, N. Cullen Avenue, needs to be in a certain location to line up with Cullen Avenue as it exists south of Lynch today. It needs to be a straight through and need to align with each other. There are no offsets. There is not a lot of room on the east side of N. Cullen Avenue due to the existing poles for Vectren. I think if we add sidewalks on top of the roadway, it will be congested on that side. We want to leave that space as green as possible and put the sidewalk on the other side. Vectren has certain requirements as far as spacing around their poles. We are trying to give them as much space as we can and not interfere with their poles. We want to provide a walking path from the north line of our property to the south line, on the west side of Cullen Avenue.

Mrs. Payne: You may not know the answer to this. The other apartment complex that is going to extend to Cullen, are they going to put in sidewalks?

Mr. Buedel: There are no sidewalks on their proposed site plan. That is under construction. They are in phase II of the project.

Mr. Stahl: Is that Delaware Trace?

Mr. Buedel: Yes.

Mr. London: That project was approved a couple of years ago. They presented an overall development plan before it was located in the county. They didn't have to have sidewalks. Since that plan was dated back several years ago, we couldn't require them to put in sidewalks. It may be something where we extend the sidewalks further when the rest of Cullen is extended. It might be added by the City at a later time.

Mrs. Payne: I like the sidewalks because people who ride the bus, walk or even ride their bikes would use, especially along Green River and Lynch.

Ms. Stevens: They are currently walking in the grass, weeds and mud.

Mr. Stahl: On a waiver would sidewalks be required along Lynch on this development? I know there is going to be a gap. There is a big right-of-way there.

Mr. London: I don't know. I would have to ask you that question.

Ms. Stevens: Lynch is a different kind-of road too.

Mr. Stahl: That is what I am saying...

Mr. London: Since it is limited access right-of-way, it would have to be on the back side of their property? I don't think a limited access would allow sidewalks.

Mr. Stahl: Right. I didn't know if there was a way to...

Mr. London: It would have to be on the private side of the development.

Mr. Stahl: Off of the right-a-way.

Mr. London: Yes. Outside...

Ms. Stevens: Okay. Are there any other questions for the petitioner? Are there any remonstrators? (None) Is there a motion to approve with the following conditions:

- 1) A Traffic Impact Study shall be submitted for review and approval by both the City Engineer and the Evansville MPO; and any improvements recommended in the Study shall be constructed when needed, or post a letter of credit with the Area Plan Commission to cover the cost of any recommended improvements.
- 2) The proposed design, ROW, and street elevations must incorporate future street connections and account for the current street design and construction standards.
- 3) Provide the Building Commission with the required site grading plan, elevation certificates, tech bulletin 10-01 and compaction test results.
- 4) Revise the Access Note under the General Notes on the plat to add: *Lots 1 and 2* to the paragraph dealing with the interconnection of Lots 3 and 4; and Add the following sentence:
The two shared, full-access locations shall align directly across Cullen from one another.
- 5) Any ingress egress easement needed for the aligned and shared access shall either be shown on the plat prior to recording or be provided by the time plans are filed for Site Review for the first of these four lots to be developed.

- 6) Add under the General Notes the standard Noise Sensitive Statement to the plat due to the proximity of the site to the airport.
- 7) Revise the plat to dedicate public right-of-way along the north boundary of Lot 4 and south of the private drive in the area currently labeled as 25' feet of ROW for a private drive. Improvements within this right-of-way will not be necessary at this time, but as more of the ground to the west becomes developed, a road will need to be built for a connection to Green River Road.
- 8) The City of Evansville has granted preliminary approval for access at the Lynch and Cullen intersection. Final access approval will be considered once final road plans are approved and the developer obtains a Construction in the ROW permit.

Ms. Stevens: Is there a motion with those conditions?

Mr. Stahl: This is approval of the plat.

Ms Stevens: Yes, the plat of the subdivision. (Motion was made and seconded) Janet will you please call the roll.

Ayes: Mrs. Lowe, Mr. Mueller, Mrs. Payne, Mr. Ungethiem, Mr. Amsler, Mr. Colter, Mr. Kumar, Mr. Lehman, and Ms. Stevens

Nays:

There being 9 affirmative votes, Docket No: 4-S-2015-Waterstone at Green River is approved.

Mr. London: Let's move on to the sidewalk waiver. I have given everyone copies of the four pages. One is the initial request from the developer for the sidewalk waiver, that it is the first page. The second page is the drawing they provided. The last two pages are the comments that I received from the City Engineer and MPO. I was planning on reading those two comments into the record.

The Engineers Office: The final matter is in response to the Partial Sidewalk Waver. This development is being described as a mixed use development, with a large multi-family development on the east side of the proposed N. Cullen Avenue, and commercial development on the west side of the proposed N. Cullen Avenue. The lot on the east side of the proposed N. Cullen Avenue is high density (~0.15 ac. Per living Unit) , pedestrian generating development, and the likely destination of said pedestrians will be the commercial development currently proposed and potentially future development on the west side of the proposed N. Cullen Avenue. Therefore, the city engineer's office recommends denying the partial waiver requested and recommends that sidewalks be installed on both sides on the proposed N. Cullen Avenue, to ensure connectivity and a true pedestrian network, which offers residents and customers of the development a healthier and less environmentally impactful method of transportation throughout the mix use development.

MPO: While the ordinance governing the installation of sidewalks does allow for the potential waiver of sidewalks on larger lots, we feel the intent of this ordinance was to support the installation of sidewalks on the basis of density. This development is expected to have roughly 175 apartment units (Lots 1 & 2)(175 units on ~27 acres is 0.15 acres per unit, not including the commercial) with the potential of a significant amount of commercial across the street (Lots 3 & 4) in addition to the significant potential for pedestrian traffic from both the north (by extension of Cullen Av to Hirsch Rd) and to the south with the existing commercial on the south side of Lynch Road. As such, the MPO does not feel that this proposal adequately accommodates all modes of transportation.

Ms. Stevens: Okay. Do we have any extra input? Are there any other comments?

Mrs. Payne: I am trying to figure this out. The east side you want to waive...

Mr. London: That is correct.

Mrs. Payne: That is the side where the apartments are going to be?

Mr. Buedel: That is where our apartment complex is going to be.

Mrs. Payne: You want to waive that sidewalk and put it on the other side where the commercial is?

Mr. Buedel: Yes. We want to provide the access but we want to do it on the west side of the road only.

Mrs. Payne: Most of the people are going to be on the right side of the road because that's where the apartment is located.

Mr. Buedel: That's where the apartments are located. I was not aware of those comments. Again, the east side of the road is close to the power poles. We are working on permits and so forth...permission from Vectren to be able to construct the roadway within their easement as Delaware Trace did to the north. There is a lot of back in forth with them trying to get the agreement in place to actually encroach in their easement. I think everything is going to be fine. There should not be any issues. They allowed it on the south side of Lynch, with N. Cullen Avenue that is already in place, without any sidewalks. They have allowed it to the north across Delaware Trace. It is being constructed without any sidewalks. We are trying to lessen the impact. Part of it is to lessen the impact on the Vectren poles. They are going to want us to install the curbing. Near the poles, the curb is going to be reduced down to 1" curb and basically a drive. This is the requirement from Vectren so that when they need to work on their poles they have the ability to pull off the road and not jump a 6" curb. That would tear up the curb and their equipment. We are trying to accommodate Vectren and allow them to get to their poles. If there is a sidewalk in place they will be driving over it. The poles are going

to be in a couple feet of the edge of the sidewalk if constructed. It is going to be a tight area. It's an area that Vectren needs, I think, to have open to allow access to their poles. We do have the ability to ask for a waiver due to the lots being larger than an acre. I know that doesn't guarantee a waiver. When you look at the surrounding area, especially the new commercial development in the north, our purposed sidewalk is out of place. There are no other sidewalks in this area. On Green River Road, which is newly constructed, has no sidewalks. That is where people are walking. We are trying to provide a route to get from one side of our property to the other. We feel that the one side is adequate for what we need and what Delaware Trace and other future developments would need too. The last thing to comment about is the discussion of whether to have access on to Lynch Road, going north, at this location. It was a big part of the project. Now that we don't have the property all the way to Green River it's our only access. Whenever the access was, for the most part, granted it wasn't just an opening in a limited access right-of-way. It was to give us a commercial property that we can develop. The City is requiring us...we have no option to build the road all the way across our frontage. We can't go in and build a cul-de-sac and stop the road. We all realize it's a benefit to this property that we can have access to Lynch Road. Now that's all set aside, once we get on the property, the roadway that divides it to two pieces is not desired. If Mr. Goebel had his way, he would have that intersection at Cullen Avenue and Lynch Road coming into his apartment site without going through the property. He would have loved to have this as one lot with all the apartments. He would have made a residential apartment complex.

Based upon the City's master plan, Cullen Avenue has to be extended from Lynch Road. It will eventually go to Hirsh. It is more or less a frontage road for Green River Road.

Mrs. Lowe: It sounds like the sidewalk could be a safety hazard. If they are working in the space they would be on the sidewalk.

Mr. Buedel: They are going to drive over at least.

Mrs. Payne: There are utilities poles all over town with sidewalks. I am thinking about where I live. There are utilities poles and sidewalks. People just walk around them.

Mr. Buedel: I know but it's just a spacing issue...from the edge of the road to the poles. If we can leave that open as possible and leave it as clean as possible, that's what we hoping to do. I understand there are poles next to the curb and in sidewalks all over.

Ms. Stevens: Washington Avenue!

Mrs. Payne: Yes.

Mr. Buedel: Weinbach Avenue.

Ms. Stevens: Okay-let's keep moving.

Mr. Colter: On the blue print of the site plan... sidewalks that are purposed in the new apartment complex. NO.

Mr. Buedel: There will be sidewalks in the apartment complex.

Mr. Colter: I am looking at the drawing and wondering where they are.

Mr. Buedel: That is an old...like I said when I first started.

Mr. Colter: We are making a recommendation with outdated information. Okay. Let me see the picture at the bottom. (Powerpoint) Are those the sidewalks in the apartment complex? Is this just a representative...

Mr. Buedel: That is a picture that the apartment complex that this same architect designed. It is in a different location. They are out of state. I don't know exactly where the picture was taken.

Mr. Colter: Is this similar to what you think is going to go into this complex?

Mr. Buedel: The apartments, yes.

Mr. Colter: The sidewalks are somewhat similar to this? There will be sidewalks for people to get around from the buildings and parking lot?

Mr. Buedel: Yes.

Mr. Colter: Are there any sidewalks in the project for them to go out to Cullen...the purposed Cullen sidewalks?

Mr. Buedel: No.

Mr. Colter: There are just in the complex itself.

Mr. Buedel: Yes.

Mr. Colter: My own feeling is that the sidewalks keep getting waived by the County Commission and City Council. Cul-de-sacs are becoming more and more the norm for subdivisions. It's a little bit of a rub with me in the community that wants to move towards alternative transportation and neighborhood environments. Sidewalks are a key component of that. I am very similar with Mrs. Payne's on the idea that this seems to be Vectren's driving force on the waiver, rather than the needs of the residents in the purposed complex. I am more in line with what the MPO and the City Engineer as saying and in trying to find an alternative. We want the sidewalks to serve the need to of the people, with both safety and convenience.

Mr. Buedel: Part of that is when you see people walking down Green River...

Mr. Colter: I don't like that.

Mr. Buedel: Me neither, but they are coming from Delaware Trace.

Mr. Colter: It's not just from there. They are coming from Menards and every place you look. Sidewalks are lacking in this community.

Ms. Stevens: Other questions or comments.

Mr. Mueller: The apartments are going to be on lot#1 and lot#2. Is that your plan?

Mr. Buedel: Lot#1 is the apartment complex and lot # 2 is commercial. It's kind-of open. It can be more apartments. Lot #1 is definitely is apartments.

Ms. Stevens: The plans we initially had a building on lot #2, but that is not what is currently purposed.

Mr. Mueller: That's what I thought. Ron on our timing, though, if we were to waive the east side sidewalks the west side ones would not have to be built right away. Is that correct... until those lots were developed?

Mr. London: That is correct.

Mr. Mueller: So we could have apartments out there for a while before we ever had sidewalks.

Mr. London: They can do the letter of credit. They can put the sidewalks on a letter of credit or they can do it with a CFO process on the plat. Yes, they would not have to be built at the time the road is built.

Mr. Mueller: Scott the power line you are talking about, it is a regular power line or a high voltage line?

Mr. Buedel: It's a transmission line?

Mr. Mueller: Transmission line? Okay. Understand what you are saying about the sidewalks being next to a major transmission line and Vectren's issue with the maintenance, but should we build the apartments out there with no sidewalks for 10 years. Those are the two things I am weighting. It would be nice if we're going to waive them and know that they are going in on the other side quicker, instead of waiting for the development. Let use the example of Menards, if they did have sidewalks out there...we would still not have sidewalks until each lot was built. That is what I want people to think about.

Ms. Stevens: In the interest on not going into another half hour does anyone have anything that has not been heard or shared? I would like to entertain a motion for approval. (Motion was mad and seconded) Janet will you call the roll.

Ayes: Mr. Kumar, Mr. Amsler, and Mrs. Lowe

Nays: Mr. Mueller, Mrs. Payne, Mr. Ungethiem, Mr. Colter, Mr. Lehman, and Ms. Stevens

Mr. Ungethiem: (During Roll Call) Due with the recommendation of the City Engineer I vote NO.

There being 3 affirmative votes and 6 opposed votes, Docket No: 4-S-2015-Waterstone at Green River will have no action.

It will be heard again next month, June 18, 2015.

After roll Call

Mr. Stahl: You might ask your client if he would consider a modification that would commit to put in the sidewalks on the west side. It would address what Jeffery was saying. In other words before that...was built out

Mr. Buedel: With a letter of credit and not a CFO.

Mr. Colter: If we can get some updated drawings or designs/concepts to look at.

Mr. Buedel: I did not provide those drawings. The only drawings I provided was for the subdivision plat.

Ms. Stevens: Do we have a motion to adjourn? (Motion was made and seconded)
Motion carries meeting is adjourned.

Stacy Stevens, President

Attest:

The undersigned secretary certifies that the foregoing are minutes and not intended to be a verbatim transcript. An audio version of the proceedings can be heard or viewed on our website at www.evansvilleapc.com.

Ronald S. London, Executive Director

Rachel Kitterman, Transcriber